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JUN 11 2002

DIVISION OF  
OIL, GAS AND MINING

E.I.R.

EMERY INDUSTRIAL RESOURCES, INC.

P.O. BOX 489

Price, Utah 84501

State Of Utah  
Department of Natural Resources  
Division of Oil and Mining  
1594 West North Temple, Suite 1210  
P.O. Box 145801  
Salt Lake City, Utah 84114-5801

June 11, 2002

Attention: D. Wayne Hedberg  
Permit Supervisor  
Minerals Regulatory Program

Re: Large mine permit at Cherry Hill Park Quarry, M/049/021, Utah County, Utah.

Dear Mr. Hedberg,

Emery Industrial Resources Inc. hereby submits the following as needed to satisfy those remaining requirements for a large mine permit.

R647-4-105-Maps, Drawings & Photographs

**105.2 Surface facilities map**

The map provided does not include the access road and pre-existing structures as part of the affected area. Even though a variance to leave these facilities for post-mining land use was requested by the surface owner, they need to be included in the affected area.

Response: See that map submitted 3-12-2002

**105.3 Drawings or Cross Sections (slopes, roads, pads, etc.)**

3.16 The response still does not include a readable topographical map that indicates the final reclamation contours.

Response: See that cross section map 3-12-2002.

#### R647-4-106-Operation Plan

##### **106.6 Plan for protecting & redepositing soils**

The plan states that topsoil is usually re-spread within a two-period, which is not a sufficient period or time for any substantial erosion to occur. The division disagrees with this statement. Any topsoil that is not reproach during the same season that it is salvaged needs to be seeded with a cover crop (i.e. thickspike wheatgrass and yellow sweetclover ). All topsoil stockpiles should also be identified with signs so that workers do not inadvertently cause further impact to the topsoil during operations.

Response: Stockpiles will be identified and if said stockpiled need to be seeded this will be done.

##### **106.7 Existing vegetation - species and amount**

A site inspection of the area on September 21, 1999 confirmed the vegetation ground cover of the surrounding areas to be 50%. This figure will be used for establishing the reclamation standard of 35% ground cover (70% of the pre-existing ground cover).

Response: Agree with percentage of ground cover.

#### R647-4-107 - Operation Practices

##### **107.4 Deleterious material safety stored or removed**

Fuel storage and spill mitigation is not addressed.

Response: No permanent fuel storage on site.

#### R647-4-109 - Impact Assessment

##### **109.4 Slope stability, erosion control, air quality, safety**

Provide copies of the appropriate air quality permit(s) regarding the generation and control of dust at your operations.

Response: Neilson air quality permit to be furnished at such time as Neilson Construction commences operations.



#### R647-4-110-Reclamation Plan

##### **110.2 Roads, highwalls, slopes drainages, pits, etc, reclaimed**

Please describe how pads will be reclaimed (regrading, ripping with a dozer to a depth of two feet, etc.) Will any of the waste materials be used as a substitute soil material? If so, please describe how it will be augmented with soil amendments (fertilizer, compost, etc.) To make it a suitable soil substitute.

Response: Any topsoil in stockpiles will be mixed with soil by products from operations and will be used as soil substitute.

##### **110.3 Description of facilities to be left (post mining use)**

Response: See response submitted 3-12-2002 also see letter herein submitted from E.J. Stokes dated 5-16-02.

#### R647-4-111- Reclamation Practices

##### **111.8 All roads & pads reclaimed**

See comments under R647-4-110.3

Response: See response to 110.3.

##### **111.11 Structures & equipment buried or removed**

Response: We will haul off all trash that was generated as a result of our operations.

##### **111.12 Topsoil redistribution**

Response: Plant growth medium being waste crushing finds along with any and all topsoil salvaged will be spread over the area being reclaimed, with slopes and highwalls having first priority and balances if any to be applied on pit floor.

#### R647-4-112 - Variance

Response: See response to 110.3.

#### Rule R647-4-111.11 - Variance

Response: See response to 110.3.

R647-4-113 - Surety

Response: In process and will be submitted as soon as it is issued.

R647-4-115 - Confidential Information

Response: Request is hereby made that all information with regard to location, size and nature of mineral deposit be kept confidential.

I hope this gives you the information that you requested of which is necessary to finalize our Large Mining Permit. If you have any further questions or if I can assist you please contact me.

Sincerely,

A handwritten signature in cursive script, reading "Dan L. Powell".

Dan L. Powell  
Operations Manager  
Emery Industrial Resources, Inc.



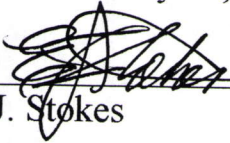
TO WHOM IT MAY CONCERN:

SUBJECT: Lease Property located in the West one-half of section 36, and the southeast one quarter of the Southwest Quarter of Section 25, Township 11 South, Range 8 East, Salt Lake Base and Meridian.

It is hereby agreed by and between E. J. Stokes and Dan Powell of EMERY INDUSTRIAL RESOURCES, that any reclamation done on the Lease Property will in no way result in the removal of the small metal shack, the metal gate or the existing road into the property.

The small metal shack was not part of the lease agreement and the metal gate that was originally on the property was replaced by the existing gate, and the road into said property existed prior to the lease agreement with Dan Powell and Emery Industrial Resources.

DATED: May 16, 2002.

  
E. J. Stokes

  
Dan Powell  
EMERY INDUSTRIAL RESOURCES



*On this 16th day of May 2002, appeared before E. J. Stokes and Dan Powell signers of this instrument who duly acknowledged the same.*

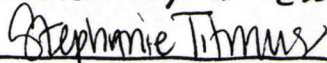
  
Notary Public



Plate 2  
(10513)

Cherry Hill Park Quarry  
M/049/021

Div. Copy

7387

7552

7400

36

Gravel  
Pit

Creek

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MAR 12 2002

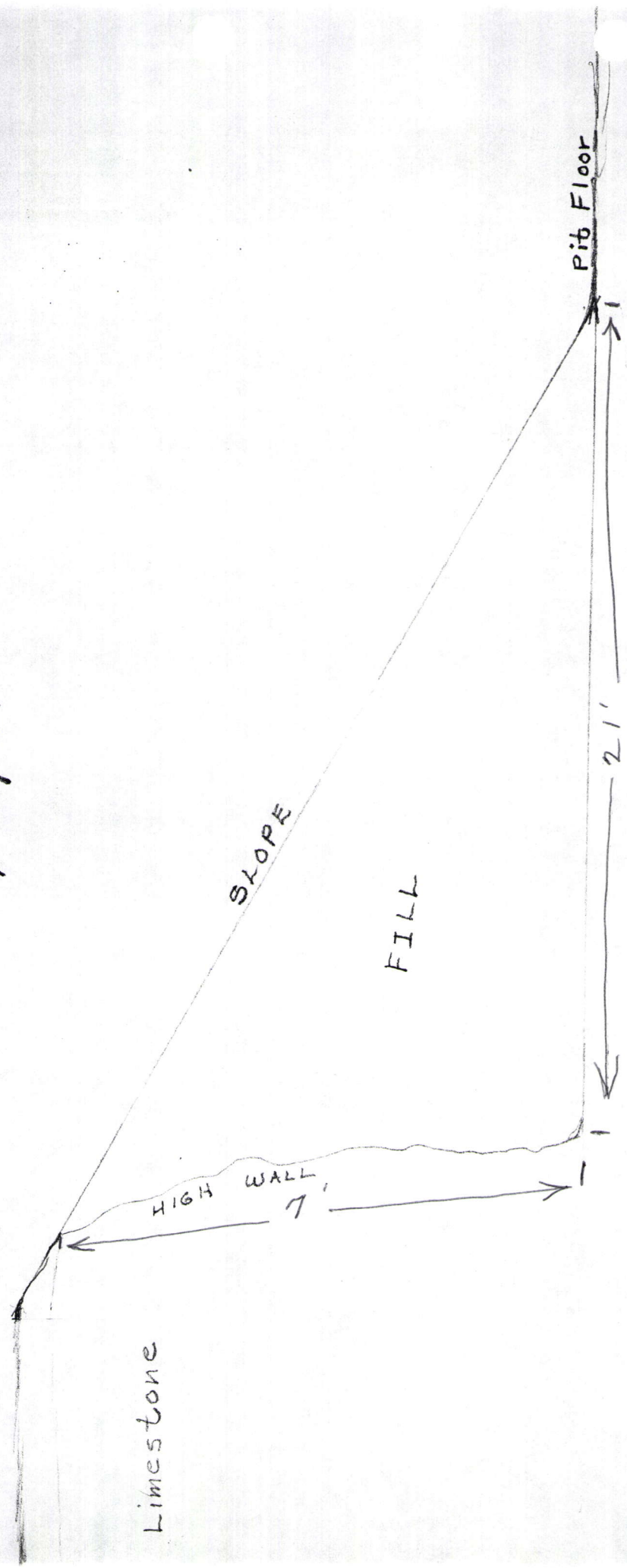
DIVISION OF  
OIL, GAS AND MINING

- Lease Boundaries
- Area of Mining
- Access Road



105.3

Typical Pit Cross Section  
Cherry Hill Park Quarry  
M/049/021



Typical Pit Cross Section Contour/Elevations

Cherry Hill Park Quarry

M/049/021

Div. Copy

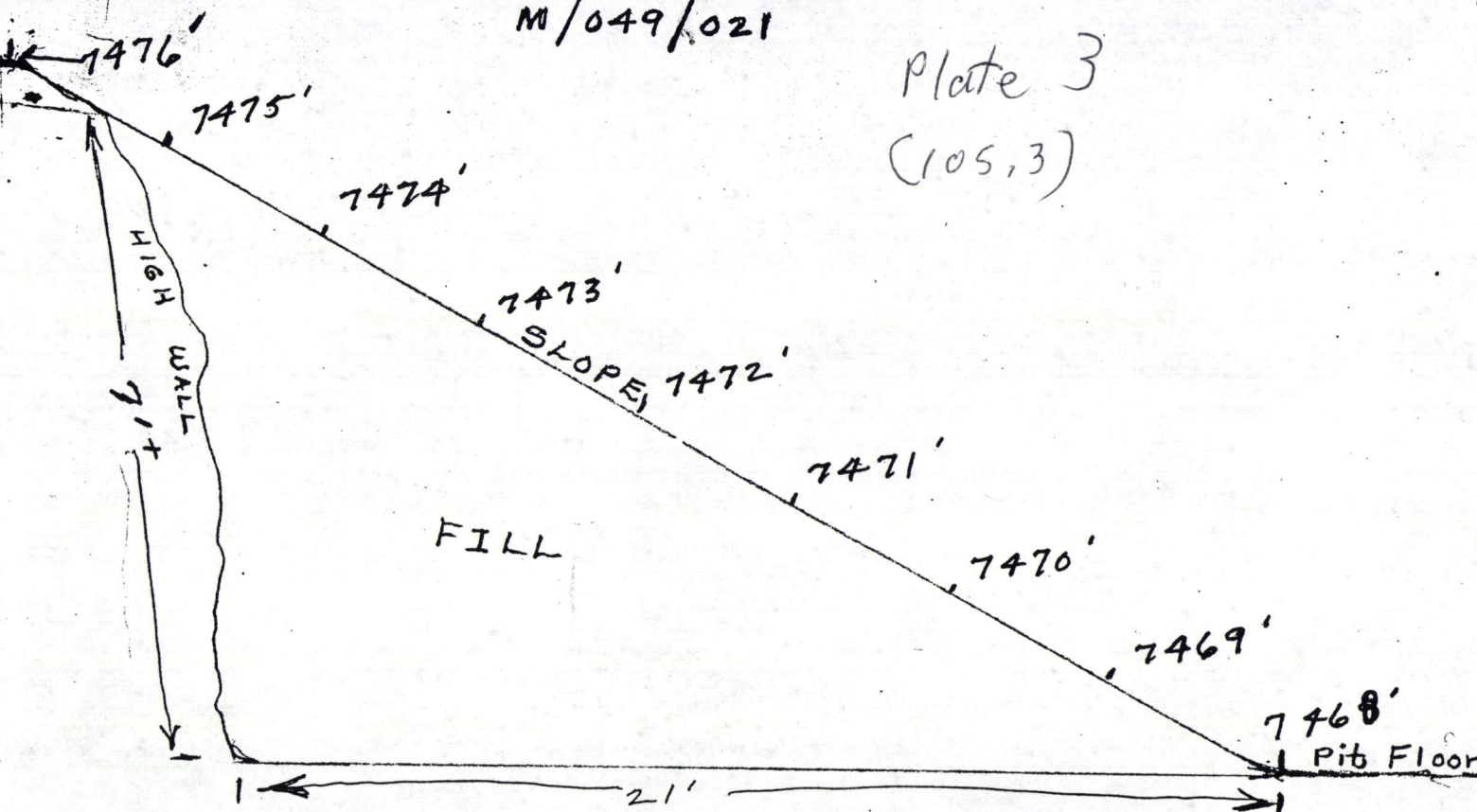
Plate 3  
(105,3)

Limestone

HIGH WALL  
7' +

FILL

1473'  
SLOPE 1472'



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Cherry Hill Park Quarry  
M/049/021

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E.I.R. LEASE  
(E.J. STOKES)

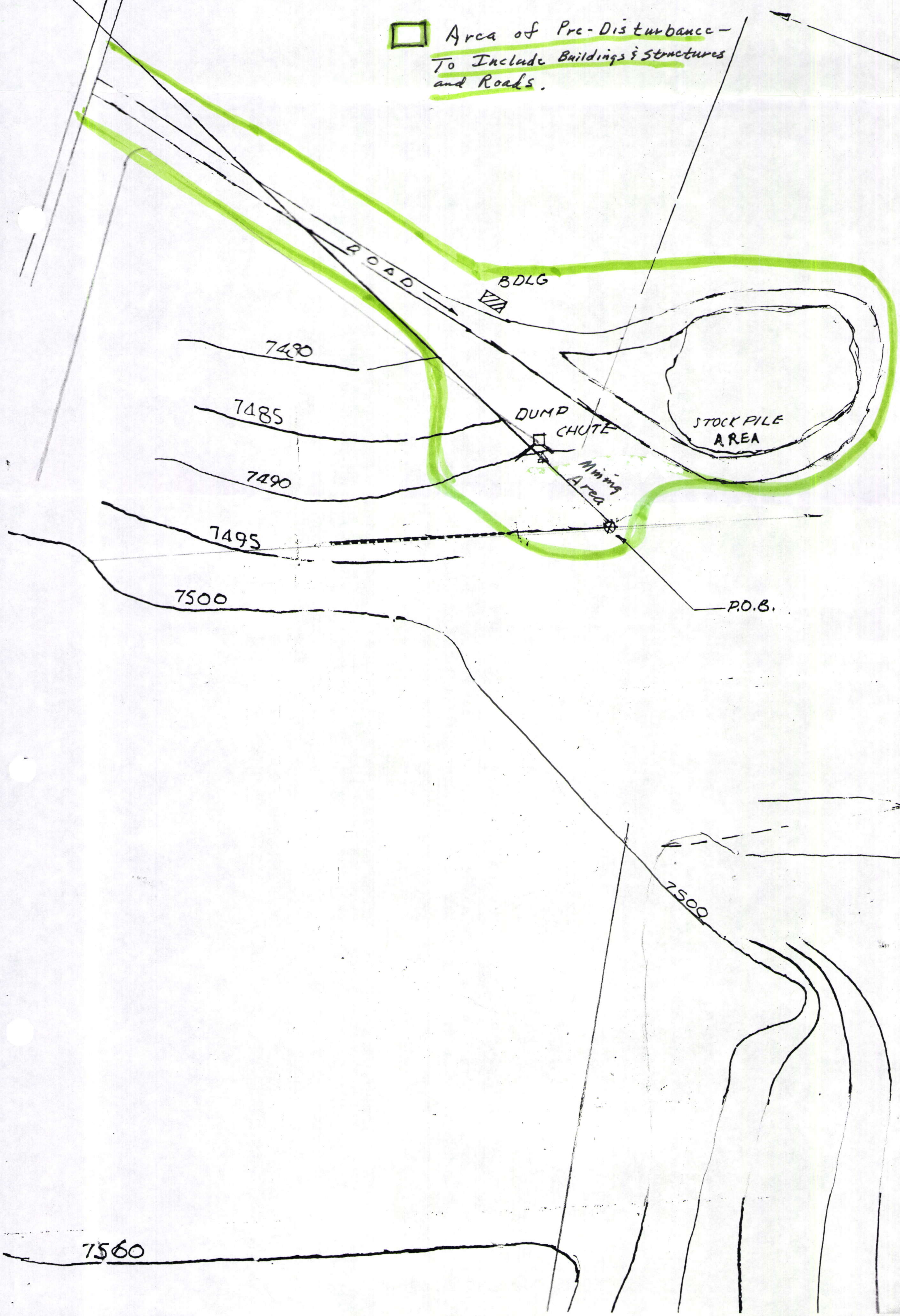
ROAD

Plate 1  
(105.12)

21000 E

19500 N

 Area of Pre-Disturbance -  
To Include Buildings & Structures  
and Roads.





# D-R-A-F-T

Emery Industrial Resources  
Cherry Hill Park Mine  
M/049/021

## Chronology (Updated 3-12-02)

July 8, 1992	Received SMO for Project from operator
July 20, 1992	Division accepted SMO for Project – no variances
July 22, 1993	Site inspected, area estimated to be just less than 5 acres.
July 7, 1994	Letter from Division to Dan Powell – asked about status of LMO application for this project – Questioned intention of plans to go to a large mining operation.
July 27, 1994	Site inspection found disturbed area greater than 5 acres (operator had estimated 7 acres, and has posted a reclamation surety with Utah County for 9 acres of disturbance.
August 24, 1994	Letter to operator requiring submittal of LMO within 45 days.
October 7, 1994	Operator provided copy of bonding documents that have been filed with Utah County. Operator also requested an additional 30 days to submit LMO
October 14, 1994	Division granted 30-day extension.
November 14, 1994	Division received original LMO from the operator
January 31, 1995	Annual report submitted – identified approximately 8 acres of disturbance.
June 2, 1995	Division sends deficiency review comments of LMO to Emery Industrial.
February 23, 1996	Annual report submitted – identified approximately 12 acres of disturbance.
October 27, 1997	Letter sent to Emery Industrial requested operator to respond within 45 days of the June 2, 1995 review, which is now over 2 years old.
December 4, 1997	Operator requested an additional 90 days to complete response to the Division's deficiency review, stating that he would need outside help to complete land surveys, soil surveys, etc.
January 12, 1998	Operator's request for an additional 90 days is denied, operator given until February 27, 1998 to submit formal response to the Division's review. A timetable was to be submitted which outlined when information that was not available would be submitted.
February 5, 1998	Annual report submitted – approximately 13 acres disturbed.
February 27, 1998	Received fax from operator (re: response for completion of permitting), which stated that he would reclaim a portion of the site, and a certified copy and an updated map would follow.
December 9, 1998	Division sent letter to Emery Industrial requesting a formal submission of all permitting materials collected to date. The Division never received the certified copy or map. Letter stated that if sufficient acreage had not been reclaimed to reduce the disturbed area to less than five acres, then a complete LMO must be filed with the Division by January 31, 1999.
January 29, 1999	Annual report submitted – approximately 5 acres reclaimed (this would leave 8 acres based on 1998 annual report).
March 3, 1999	Operator submits revised LMO



# D-R-A-F-T

September 22, 1999	Site inspected – GPS survey of the disturbed area shows 19.7 acres disturbed. The 5 acres reported as being reclaimed was 4.3 acres (as determined with the GPS) and that reclamation had not been completed (topsoil had not been replaced and no evidence that the area had been seeded).
September 30, 1999	Division completes second deficiency review of LMO (3/3/99 submittal).
February 22, 2000	Annual report submitted – identified only 8 acres of disturbance plus 5 acres that had been reclaimed.
January 23, 2001	Sent CRR letter stating we have not received a response to our 9/30/99 review comments to date. Another copy of comments sent w/letter. Please respond w/in 30 days from receipt of this letter. Operator received letter on January 29, 2001.
January 29, 2001	Annual report submitted – identified 8 acres of disturbance.
May 7, 2001	Letter DOGM sent 1/23/2001 was sent to the wrong address (went to Stephen Powell instead of Dan Powell). Hand delivered letter to Dan Powell today and gave him until the end of June, 2001 to respond.
June 29, 2001	Letter received from the operator requesting a meeting to discuss the review and a timeframe to make a submission.
July 30, 2001	Meeting held to discuss DOGM 9/30/99 review letter. Operator granted another 45 days to submit information @9/14/2001.
August 16, 2001	Sent letter documenting meeting held on 7/30/2001 and commitments made by operator. Operator agreed to have response to DOGM w/in 45 days from meeting date or by 9/17/2001. At the meeting it was discussed that it is likely that the operation will be transferred to Utah Rock, Inc. once the permit is finalized July.
September 13, 2001	Sent letter stating site inspected 9/6/2001 showed signs of Musk Thistle infestation. Requested operator control this noxious weed now, which will make revegetation easier upon final reclamation. DOGM rules do not require this, but the Utah Noxious Weed Act does.
September? 2001	Phone call requesting another two week extension to respond. Granted to 10/1/2001.
January 22, 2002	Sent CRR Division Directive. It has been over 100 days since Division extended date to 10/1/2001 to submit response to 9/30/99 review. Must contact Associate Director w/in 10 days to schedule a meeting to discuss options to remedy situation.
January 31, 2002	Phone call to Dan Powell regarding 1/22/2002 CRR letter. He only occasionally gets to Price to pick up mail. (He lives in Utah County). The letter was faxed to him today; therefore, operator received DOGM 1/22/02 CRR letter today! Response due by 2/11/02.
February 11, 2002	Phone call from operator - wants meeting scheduled for 2/25/02..
February 19, 2002	Phone call from operator – requested meeting to be rescheduled for early March. Operator and Division agree on March 12, 2002.
February 27, 2002	Received 2001 annual report. No activity since 1998. Current plans call for possible mining during spring/summer with follow up reclamation as needed.

Div. Copy

Cherry Hill Park Quarry

M/049/021

(110,3)

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*Paragraph # 16 - Re: Lease and Agreement dated  
6-26-1992 by and between E.J. Stokes "Lessor"  
and Emery Industrial Resources "Lessee",*

16. Lessee may utilize any existing structures and facilities on the Leased Premises with the exception of the existing cabin hereby reserved for Lessors use,



**FAX COVER SHEET**

Community Development Dept.  
100 E. Center St. #3800  
Provo, UT 84606

(801) 370-8344  
Fax (801) 370-8340

No. of pages including cover sheet: 6

March 12, 2002

To: Lynn

From: Buck Rose

Fax: (801) 359-3940

Dan Powell's bond. Exhibit A shows area  
bonded

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MAR 12 2002

DIVISION OF  
OIL, GAS AND MINING

permit  
# 9746**AGREEMENT**

THIS AGREEMENT is made on the 25 day of March 1994, by and between UTAH COUNTY, a body corporation and politic, of the State of Utah, hereinafter referred to as "Utah County"; and Emery Industrial Resources, Inc., hereinafter referred to as "Emery"; and E.J. Stokes, hereinafter referred to as "Stokes".

**THE PARTIES HERETO AGREE AS FOLLOWS:**

1. That Emery is the leaseholder of land located in Utah County, State of Utah, which is more particularly described in Exhibit A, which Exhibit is attached hereto and made a part hereof.
2. That Stokes is the owner of the land described above.
3. That Emery hereby warrants that it has sufficient rights and control of said land to rehabilitate the land and otherwise comply with the regulations found in Section 3-28 of the Utah County Zoning Ordinance as currently in effect, which Section is attached hereto as Exhibit B and made part hereto.
4. That Utah County has required that Emery post a bond assuring that the land described in Exhibit A hereto will be completely rehabilitated by Emery according to the regulations contained in Section 3-28 of the Utah County Zoning Ordinance. That the bond amount to be posted by Emery has been set in the amount of \$14400.00, which amount is allocated as follows: \$1600.00 per acre for 9 acres.
5. Emery has established a bank control account at Key Bank, 207 North University Avenue, Provo, Utah, account number 780231536, in an amount in excess of \$14400.00. Prior to issuance of a permit in this matter, Key Bank will issue an Irrevocable Letter of Credit which names the Board of County Commissioners for Utah county as the Beneficiary and which guarantees availability of the required \$14400.00. The above-mentioned Letter of Credit refers to this Agreement and is controlled by the provisions of this Agreement.
6. The amount of \$14400.00 in said account shall be held by the Bank as a guarantee bond and shall be payable to the County Commission on demand as set forth herein and pursuant to the terms of the Letter of Credit. Said amount shall act as a cash bond to assure the rehabilitation of the limestone gravel pit according to the terms of the Utah County Zoning Ordinance. Any principle or interest earned in said account which exceeds the amount of \$14400.00 is not bound by this Agreement and may be withdrawn by the account owner at any time.
7. The Bank will control the above mentioned account for the benefit of Utah County until the County Commission releases its interest in the account, according to the terms of Paragraph 13 of this Agreement, below.



8. Emery agrees to reclaim the site pursuant to the terms of Section 3-28 of the Utah County Zoning Ordinance, including the smoothing and grading of finished slopes not to exceed the critical angle of repose and to leave no undrained depression on the property. Also in accordance with Section 3-28, Emery agrees to cover the areas disturbed with topsoil to a depth of at least one inch and to reseed the areas so covered pursuant to its reclamation plan contained in Exhibit "C" hereto.

9. That the land described in Exhibit A shall be rehabilitated within one year of the date that a business license is not issued for the pit, within one year of the date that excavations cease at the pit, or within 15 years of the date of this Agreement stated on the first line, above, whichever date is first. In the event that rehabilitation has not been completed within the above date period, the Board of County Commissioners may after 90 days of serving notice to Emery to correct said default declare the bond to be defaulted and demand payment as stated below.

10. Emery and Stokes agree for themselves, and their successors and assigns, that if Emery fails to comply with the terms of Paragraph 8 above, that Utah County Officials may enter the property described in Exhibit A and use the bond to rehabilitate the property and bring it into compliance with the standards of the Utah County Zoning Ordinance, provided they have first given proper notice to Emery as per Paragraph 9 above.

11. That this Agreement allows only the operation of the limestone pit on the land described in Exhibit A, and Emery agrees to operate the limestone pit exclusively within the boundaries described for the limestone pit in Exhibit A, and to operate exclusively in accordance with the requirements of Section 3-28 of the Utah County Zoning Ordinance contained in Exhibit B, regardless of the present condition of the land or other events; any violation of this, or any other part of this Agreement by Emery or its agents or assigns, shall be authorization to Utah County to declare the bond in default, and the Board of County Commissioners may after 90 days of serving notice to Emery to correct said default declare the bond to be defaulted and demand payment.

12. If Emery shall fail to rehabilitate within the time frames listed above, then to obtain payment, the County Commission, or the Utah County Attorney acting as an enforcement agent, shall send a demand letter as set forth in the Letter of Credit to the Bank which refers to this Agreement, the sum of money demanded (not to exceed \$14400.00), the statement that the bond is in default, a brief statement of the nature of the default, and a statement that Emery failed to rehabilitate after being given proper notice, and the address to which money shall be sent. The County Commission or Utah County Attorney shall send a copy of the demand letter to Emery and Stokes. The Bank shall deliver the sum within 30 days

after its receipt of the demand letter and Emery has been notified as stated herein.

13. Otherwise, when the pit is rehabilitated, in a timely manner and in accordance with the standards of the Utah County Zoning Ordinance contained in Exhibit B, the County Commission shall declare that the requirements of this Agreement have been fulfilled, and shall send a written Notice of Completion to the Bank, with a copy to Emery, which releases the County Commission's claim to the said bank account and authorizes the Bank to restore the funds to the account owner. In the event Emery permanently rehabilitates a portion of the active limestone gravel pit in accordance with the standards of Section 3-28 of the Utah County Zoning Ordinance so that a lower bond amount would be required by said Ordinance, Emery may make application to Utah County to release a portion of the required bond. Once a portion of land is rehabilitated in accordance with Section 3-28 of the Utah County Zoning Ordinance, it may not be further disturbed without obtaining a further permit and providing an additional bond.

14. That in the event it becomes necessary to bring legal action to enforce the provisions of this Agreement, the prevailing party shall be entitled to a reasonable attorneys fee and associated court costs as determined by the Court.

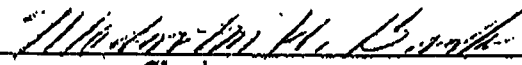
In witness whereof, this Agreement has been executed effective the day and year first mentioned above.

EMERY INDUSTRIAL RESOURCES, INC.

By:   
Dan L. Powell - President

By:   
E.J. Stokes

COUNTY COMMISSION:

By:  8894  
Chairman

By: malcolm H. Beck  
Commissioner



By: \_\_\_\_\_  
Commissioner

Attest:  
J. Bruce Peacock  
Clerk/Auditor

By: Shirley B. Englund  
Deputy

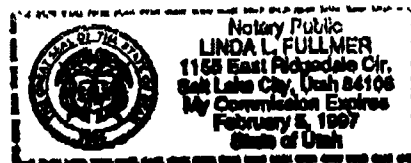
## NOTARY

On the 25<sup>th</sup> day of March, 1994, personally  
appeared before me, Dan L. Powell the President of Emery  
Industrial Resources, Inc., the signer of the above  
instrument, who duly acknowledged to me that he executed  
the same.

Linda L. Fullmer  
Notary Public

Residing at: Salt Lake City, Utah

Commission expires: February 5, 1997



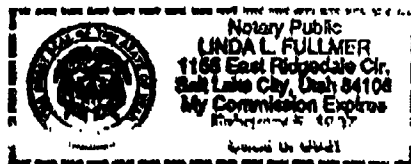
## Notary

On the 25<sup>th</sup> day of March, 1994, personally  
appeared before me, E.J. Stokes the signer of the above  
instrument, who duly acknowledged to me that he executed  
the same.

Linda L. Fullmer  
Notary Public

Residing at: Salt Lake City, Utah

Commission expires: February 5, 1997



Approved as to form:

By: David L. Smith  
Deputy County Attorney

**EXHIBIT A**

Beginning South 43°06' 19" East 1648.11 ft. and North 100 ft. from the North-west corner of Section 36, Township 11 South, Range 8 East S.L.M. to P.O.B.; thence North 140 ft.; thence East 300 ft.; thence South 240 ft.; thence East 80 ft.; thence South 300 ft.; thence West 254 ft.; thence South 13° West 205 ft.; thence West 426 ft.; thence North 13° East 205 ft.; thence North 400 ft.; thence East 300 ft. to P.O.B. containing 9.00 acres more or less.

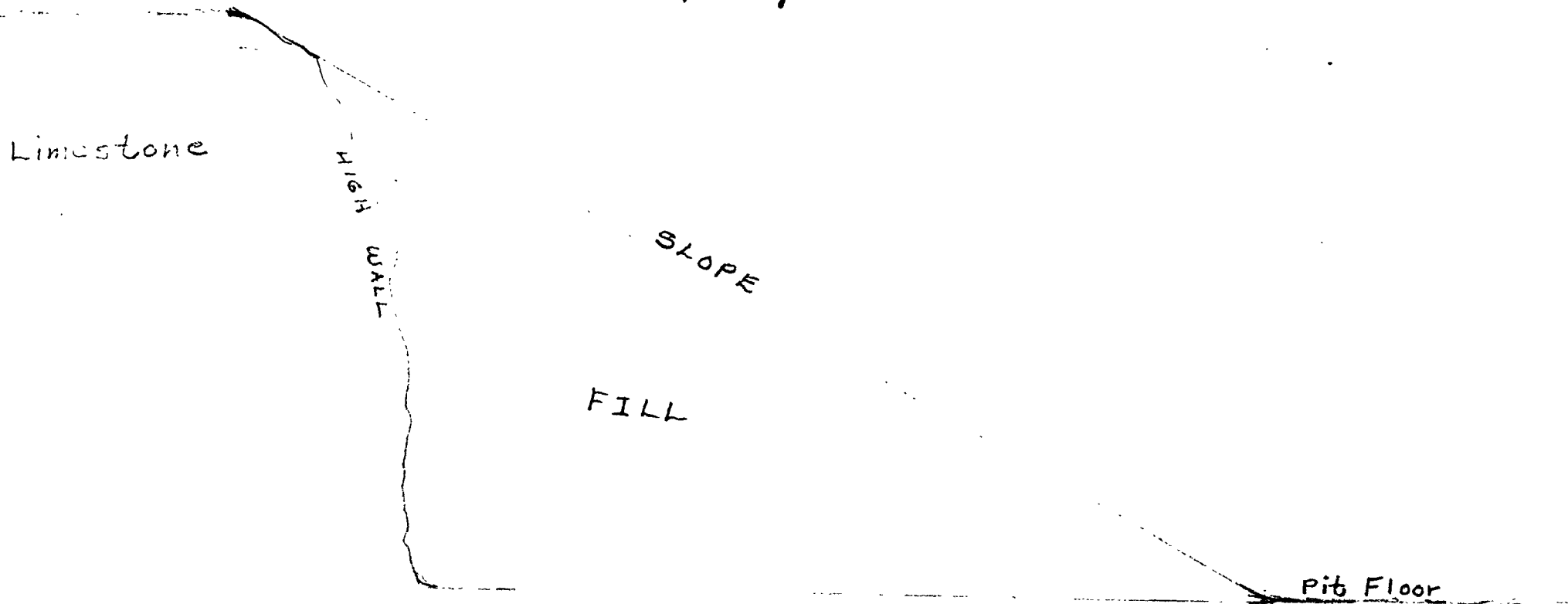


105.3

# Typical Pit Cross Section

Cherry Hill Park Quarry

M/049/021



B/12/02  
DOGM revd.